

(a) A full and complete description of all assets on hand, including the legal description and common address of real property. The descriptions may either be set forth in the body of the petition, or by an attached schedule incorporated by reference.

(b) An allegation as to the character of the property, whether separate or community, in all cases where its character may affect distribution.

(c) Facts specifically showing the entitlement of each recipient to the portion of the estate to be distributed to him or her. This must also include information concerning predeceased children and in the case of intestate succession, a list of heirs to permit the Court to determine if the laws of intestate succession have been properly applied. A general allegation that the estate is to be distributed in accordance with the terms of the will is not sufficient.

(d) The name of each distributee. State whether the distributee is an adult or minor. If the distributee is a minor, the age and date of birth must also be listed and a guardian, trustee, custodian or parent identified.

(e) A computation of attorney's fees and personal representative's commissions requested, or a statement of the waiver of such compensation. See Appendix C.

In addition to the rules set forth above, a petition for final distribution must contain the following:

(i) A schedule of claims showing the name of the claimant, the amount claimed, the date presented, the date allowed, the date paid if the claim has been paid and the amount paid. If any claim has been rejected, the date of service of notice of rejection of claim, if such notice was given, must be stated; and any known suit on the rejected claim must be identified.

(ii) An itemization of costs unless itemized in the final accounting.

(iii) A statement that the federal estate tax has been paid, or that the estate is too small to require payment of tax, or that installment payments have been provided for under IRS 6166. When proration of the federal estate tax is applicable, the accompanying account should include a schedule indicating the method by which the proration has been computed.

(iv) A statement that decedent had not received health care under provisions set forth in Probate Code Sec. 9202; or a statement that (1) decedent had received such health care, (2) notice of decedent's death was given to the Director of Health Services in the manner and within the time required by Probate Code Sec. 9202, and (3) more than 4 months have elapsed since said notice was given, and that either no claim was filed by the Director during that period, or that the claim which the Director full and a dismissal of claim is on file.

(v) If interest or income accruing during administration is distributable pursuant to Probate Code Sec. 12000 et seq., a statement of the amount due and the method of calculation. See Rule 11.902.

RULE 11.1103

DISTRIBUTION TO MINORS

(a) If the decedent's will permits or if the sum does not exceed \$20,000, the Court can order the distribution to a custodian for the benefit of the minor under the Uniform Transfer to Minors Act. Probate Code Secs. 3900 - 3925.

(b) The court may permit distribution of personal property to a parent of a minor if the total estate of the minor, including the money and other property to be paid or delivered to the parent, does not exceed \$5,000 in value. See Probate Code Sec. 3400. The written assurance required by Probate Code Sec. 3401 must be filed prior to the signing of the Order. The Order must indicate that the distribution is made pursuant to Probate Code Sec. 3401.

(c) Where there is money belonging to the minor, the Court may order that a guardian for the estate be appointed and that the money be paid to the guardian or the Court may order that the guardianship of the estate be terminated and order one or more of the alternatives provided in Probate Code Secs. 3410 - 3413, or, if there is no guardianship, the Court may order one or more of the alternatives provided in Probate Code Secs. 3410 - 3413.

RULE 11.1104

DISTRIBUTION TO NONRESIDENT BENEFICIARIES

If a distribution is to be made to a non-resident beneficiary, and if the assets of the estate exceed \$400,000, and more than \$100,000 is to be distributed to a non-resident beneficiary, the certificate of the California Franchise Tax Board required by Sec. 19513 of the Revenue and Taxation Code must be filed before the order of distribution will be signed.

RULE 11.1105

DISTRIBUTION TO A TRUST

(a) If a distribution is to be made to a trust, a statement by the trustee of trustee's willingness to accept the property under the terms of the trust must be filed with the petition for distribution.

Lacking this, a declination to act must be filed, in which case it should be accompanied by a petition by the personal representative for the appointment of a substitute trustee.

(b) If the will provides for distribution of the estate, or portion thereof, to a trust, the trust provisions set forth in the will must be set forth verbatim in the petition and order for distribution, whether or not an accounting is made.

RULE 11.1106**DISTRIBUTION TO AN ASSIGNEE**

If distribution is to be made pursuant to an assignment of interest, the Court may on the motion of any person interested in the estate or on the motion of the public administrator or on its own motion inquire into the consideration for such assignment and into the circumstances surrounding the execution of such assignment. The signature of the assignor must be acknowledged.

RULE 11.1107**DISTRIBUTION PURSUANT TO AGREEMENT**

If the distributees seek distribution in a manner other than that provided by the will or by the laws of intestate succession, that fact should be alleged, and a written agreement (signed by all involved distributees with signatures acknowledged before a notary public) must be filed.

If any such distributee is a minor or is under disability, the agreement must be signed by the minor's legal guardian. Either earlier Court approval of the agreement in the guardianship proceeding must be proved in the probate proceeding or a petition for approval of the agreement in both the guardianship proceeding and the probate proceeding must be brought on for hearing at the same time.

RULE 11.1108**PRELIMINARY DISTRIBUTION - BOND**

If a preliminary distribution is made before four months have elapsed after letters are first issued, the Court must require that the distributees post a bond. Probate Code Sec. 11622. After such four month period has elapsed, the Court may require a distributee's bond in the amount the Court orders.

RULE 11.1109**PROCEDURE FOR OBTAINING AN ORDER FOR FINAL DISCHARGE**

To obtain a final discharge for the personal representative, the following documents must be presented to the Clerk: all receipts of distributees, an affidavit for final discharge signed by the personal representative and an order of discharge obtained pursuant to the provisions of Probate Code Sec. 12250 or Sec. 12251.

**PART TWELVE
ESTABLISHING FACT OF DEATH**

RULE 11.1201**PROCEEDINGS TO ESTABLISH DEATH**

(a) A verified petition to establish the fact of death must be filed in the name of the deceased person. Probate Code Secs. 200 - 204.

(b) The order can be obtained ex parte if the petition is accompanied by:

(1) An affidavit by petitioner that petitioner has no reason to believe that there is any opposition to, or contest of the petition;

(2) The proposed order.

Filings not accompanied by these documents must be set for hearing.

(c) There is no provision in the code for attorneys' fees in proceedings to establish fact of death. No request for attorney fees must be included in the petition, and if so included, will be disallowed.

**PART THIRTEEN
PETITIONS SETTING ASIDE ESTATES, PROPERTY PASSING OR BELONGING TO
SURVIVING
SPOUSE, AND COLLECTION OF SMALL ESTATES**

RULE 11.1301**PETITION TO SET ASIDE UNDER PROBATE CODE SECS. 6600-6613**

A petition to set aside a decedent's estate (net value under \$20,000) under Probate Code Sec. 6600 et seq., must be filed in the proceedings for the administration of the decedent's estate. If such

proceedings have not commenced, a petition to set aside may be filed concurrently with the petition for letters, or if no petition is being filed, a petition may be filed independently.

RULE 11.1302

PETITION RELATING TO PROPERTY PASSING OR BELONGING TO SURVIVING SPOUSE

In addition to the allegations required by Probate Code Sec. 13651, a petition that administration of all or part of the estate is not necessary because all or part of the estate is property passing or belonging to the surviving spouse should contain the facts upon which the petition is based.

RULE 11.1303

PROCEDURE FOR COLLECTION OF SMALL ESTATES

(a) The basis for collection of small estates not exceeding \$100,000 is set out in Probate Code Sec. 13100 et seq. (personal property) and Sec. 13150 et seq. (real property). The basis for collection of an interest in decedent's real property that does not exceed \$20,000 is set forth in Probate Code Sec. 13200 et seq.

(b) With respect to succession to real property for estates of decedents not exceeding \$100,000 under Probate Code Sec. 13150 et seq., the successor of the decedent to an interest in real property must file a petition requesting an order determining that the petitioner has succeeded to the real property and that administration is unnecessary. Such petition must be on forms approved by the Judicial Council.

**PART FOURTEEN
INDEPENDENT ADMINISTRATION**

RULE 11.1401

GENERAL

With respect to matters transacted pursuant to the provisions of the Independent Administration of Estates Act contained in Probate Code Sec. 10400 et seq., the following policies must apply:

(1) In any petition for distribution, a schedule of claims must be included as part of the petition, the name of the claimant, the amount claimed, the date presented, the date allowed, the date paid if the claim has been paid and the amount paid must be set forth. If any claim has been rejected, the date of service of notice of rejection of claim, if such notice was given, must be stated; and any known suit on the rejected claim must be identified.

(2) Although preliminary distribution may be made without accounting, sufficient facts must be set forth in the petition to allow the Court to ascertain that the estate is solvent.

(3) In any petition for distribution, all independent acts taken without prior Court approval must be set forth and described with particularity, and an allegation made that the 15-day notice of proposed action with attached proof of service must be filed with the Court. If certain acts have been properly reported in a prior distribution, they need not be repeated.

RULE 11.1402

NOTICE AND PUBLICATION REQUIREMENTS

If the request for authority to administer the estate under the Independent Administration of Estates Act is made by separate petition, notice must be given in the same manner set forth in Probate Code Sec. 10451.

**PART FIFTEEN
TRUSTS**

RULE 11.1501

COURT JURISDICTION

(a) The Court has exclusive jurisdiction over the internal affairs of trusts, and has concurrent jurisdiction of (i) actions and proceedings to determine the existence of trusts, (ii) actions and proceedings by or against creditors or debtors of trusts, and (iii) other actions and proceedings involving trustees and third persons. Probate Code Sec. 17000.

(b) Proceedings concerning the internal affairs of trusts are set forth in Probate Code Sec. 17200.

(c) A copy of the trust must be an attachment to a Petition for Instructions under Probate Code Sec. 1700 et seq. and should not be filed as a separate exhibit.

RULE 11.1502

CONTINUING JURISDICTION

A trust created by a will is not subject to the continuing jurisdiction of the Court, unless:

(1) The testator provides otherwise, or
(2) The trust was created by a will executed before July 1, 1977, and not incorporated in a will or after July 1, 1977 and the trust has not been removed from continuing court jurisdiction. Probate Code Sec. 17300(a) and 17303. If the trustee is not a trust company, Probate Code Sec. 17352 provides that a pre-July 1, 1977 testamentary trust may be removed from continuing jurisdiction upon a petition filed pursuant to that section. If the petition is granted, the Court may impose such conditions including a bond, as it deems necessary. If a trustee is a trust company, a testamentary trust must be removed from continuing jurisdiction pursuant to Probate Code Sec. 17351.

RULE 11.1503**TRUSTEES' ACCOUNTS**

Accounts filed by trustees must conform to the requirements of Rule 11.901 and must set forth specifically the period covered by the account. If the trust res was formed in whole or in part by the distribution from an estate, the first account should clearly reconcile the amount first chargeable with both the decree of distribution and the trustees' receipt filed with the estate from which the property was received.

RULE 11.1504**BENEFICIARIES TO BE LISTED IN PETITION**

All petitions filed under Probate Code Sec. 17200 involving a testamentary trust or inter vivos trust must set forth the names and last known addresses of all trustees, all beneficiaries required to receive notice under Chapter 2 (commencing with Sec. 15800) of Part 3 of the Probate Code, and the Attorney General if the petition relates to a charitable trust.

RULE 11.1505**NOTICE TO BENEFICIARIES**

Petitions filed under Probate Code Sec. 17200 require appropriate notice be given to all of the following persons:

- (a) All trustees;
- (b) All beneficiaries required to receive notice under Chapter 2 (commencing with Sec. 15800) of Part 3 of the Probate Code;
- (c) The Attorney General if the petition relates to a charitable trust, unless the Attorney General waives notice.
- (d) Notice must be given at least thirty (30) days before the time set for the hearing on the petition. Probate Code Sec. 17203.

RULE 11.1506**TRUSTS ESTABLISHED BEFORE DECREE OF DISTRIBUTION**

- (a) The Clerk must issue a certificate that the trustee is a duly appointed and acting trustee under the trust if the Court file shows the incumbency of the trustee, upon the trustee accepting its duties and responsibilities as such trustee and making application to the Clerk for such certificate and paying the appropriate fees. Probate Code Sec. 15603
- (b) The trustee named in a will admitted to probate may be appointed before the decree of distribution is made, upon filing of an appropriate petition.
- (c) Where a vacancy exists, a trustee not named in the will admitted to probate may be appointed upon the filing of a petition under Probate Code Sec. 15660. Written notice must be given to all beneficiaries by mail. A bond may be required of a trustee who is a nonresident or is not named in the will.

The order appointing the trustee in paragraphs (b) and (c) must contain all the terms of the trust and the trustee must have all the powers and duties in respect to the trust res set forth in the trust instrument.

If no trustee claims the trust res or can qualify to receive the same and there is no indication in the will as to where the proceeds are to go, a petition to determine heirship may be filed in the same manner as provided by Probate Code Sec. 17200 to determine to whom distribution must be made.

RULE 11.1507**FEES OF TRUSTEES AND THEIR ATTORNEYS**

See Sec. 11.1001 et seq. of these rules.

**PART SIXTEEN
GUARDIANSHIPS**

RULE 11.1601**PETITION FOR APPOINTMENT OF GUARDIAN**

(a) A petition for appointment of guardian of the person or estate of a minor or minors must be in the form approved by the Judicial Council and must contain all the information set forth in Probate Code Sec. 1510. If the petition is for guardianship of the person of a minor, and the petitioner is a non-relative, the petition must conform to the requirements set forth in Probate Code Secs. 1510 and 1541; and appropriate notice given as set forth in Probate Code Secs. 1511 and 1542.

(b) The petition must set forth with specificity the reason for the necessity of the establishment of a guardianship.

(c) The petition must state whether or not the minor is a ward or dependent child of the juvenile court or adoption proceedings are undertaken and whether or not any custody proceeding has been filed in respect to the minor. If the minor is the subject of a juvenile court proceeding or custody proceeding, appropriate notice of the guardianship proceeding must be given to the interested parties in such other proceedings. All guardianship proceedings involving a dependent child or ward of the Juvenile Court must be set for hearing before the Juvenile Court.

(d) When a petitioner is a relative, a copy of the petition and other papers filed therewith must be provided to the Court Investigator. See Rule 11.1809. A copy of the petition only, must be provided to the San Luis Obispo Department of Social Services Child Protective Services. When the petitioner is a non-relative, a copy of the petition and other papers filed therewith must be provided to the San Luis Obispo County Department of Social Services but not to the Court Investigator.

RULE 11.1602

INVESTIGATION AND REPORT BY COURT INVESTIGATOR

(a) An investigation must be conducted pursuant to the provisions of Probate Code Sec. 1513, and petitioner must request a referral to the appropriate investigator at the time of filing the petition.

(b) The Court Investigator must conduct an investigation and report to the Court prior to the appointment of a guardian for either the person and/or estate of the ward. Although not required by statute, the Court Investigator must report on an annual basis in guardianship of the person matters. The accounting review requirements specified under Rule 11.1806 must satisfy guardianship of the estate matters. The cost of the review investigation must be a charge against the estate of the ward.

RULE 11.1603

GUIDE FOR GUARDIANS

The Judicial Council has approved a "Probate Guardianship Pamphlet" which provides basic information and may be obtained from the Clerk's Office

RULE 11.1604

SUPPORT OBLIGATION OF PARENTS

As parents are required by statute to support their children, the Court will not permit guardianship funds to be used for the minor's maintenance where one or both parents are living except upon a showing of the parent's financial inability or other circumstances which would justify the Court in departing from this rule in the best interests of the minor. In all cases where guardianship funds are to be used for the ordinary expenses of supporting a minor, and where there is a parent living who has the obligation to support the minor, the guardian must obtain Court approval prior to the expenditure of funds. A petition for authority to expend funds for support must be accompanied by a detailed explanation (including financial statements, if necessary) of the parent's inability to support the child.

PART SEVENTEEN CONSERVATORSHIP

RULE 11.1701

PETITION FOR APPOINTMENT OF CONSERVATOR

(a) The petition for appointment of a conservator must comply with the provisions of Probate Code Sec. 1821 on a form approved by the Judicial Council.

(b) A separate copy of the petition and other papers filed must be provided to the Court Investigator. See Rule 11.1809.

(c) The Court may, on the petition of the conservator, either at the time of appointment or later, grant additional powers to the conservator. It is the policy of the Court to grant only those additional powers necessary or proper under the circumstances of each case. Any powers so granted must be set forth at length in the Order and in the Letters of Conservatorship.

RULE 11.1702

LETTERS OF CONSERVATORSHIP

(a) Letters of Conservatorship will not be issued by the Clerk until there has been filed (1) a completed "Duties of Conservator" form, and (2) proof of purchase of a copy of the Handbook for Conservators, published by the Judicial Council of California, and if required, (3) proof of blocked accounts or filing of a bond. ~~Local Court Form "Receipt of Depository" is available at the Clerk's office, and upon filing, meets the Court's requirement that the funds have been received by the depository and may be withdrawn only upon Court order.~~ *Judicial Council Forms: MC-355, Order To Deposit Money Into Blocked Account, and MC-356, Receipt And Acknowledgment Of Order For The Deposit Of Money Into Blocked Account are available at the Clerk's Office or can be found on the California Courts website at www.courtinfo.ca.gov.* (Amended eff. 7/1/2002)

(b) If the Letters of Conservatorship are not issued and filed within forty-five (45) days after filing the Order Appointing Conservator, the conservator's powers will automatically be suspended and no letters must be issued by the Clerk until a further order is executed by the Court.

RULE 11.1703**HANDBOOK FOR CONSERVATORS**

The Handbook for Conservators can only be purchased at the Clerk's office. This handbook includes the required Directory of Community Resources prepared by the Court Investigator's office.

RULE 11.1704**COMPETENCE DETERMINATION/CAPACITY TO GIVE INFORMED MEDICAL CONSENT**

(a) Minimum standards have been set forth in the Probate Code Secs. 810 - 814, to establish a legal determination that a person is of unsound mind or lacks the capacity to make a decision to do a certain act, including, but not limited to, the incapacity to contract, to make a conveyance, to marry, to make medical decisions, to vote, or to execute wills or trusts.

(b) Any request for a Court order under Probate Code Sec. 1880, whether made as part of the original petition for appointment of conservator or subsequent thereto, must be accompanied by the Judicial Council form "Capacity Declaration - Conservatorship" executed by a licensed physician, or a licensed psychologist. Probate Code Secs. 1890 and 2356.5.

(c) Judicial determination pursuant to the requirements established in Probate Code Sec. 1881 is required on a petition to give the conservator of the person the powers specified in Probate Code Sec. 2355 unless the conservatee, after notice by the Court of his or her right to object which, must include an interview by a Court Investigator pursuant to Probate Code Sec. 1826 prior to the hearing on the petition, does not object to the proposed finding of incapacity, or waives any objection.

PART EIGHTEEN**PROVISIONS COMMON TO GUARDIANSHIPS AND CONSERVATORSHIPS****RULE 11.1800****HEARING DATES**

(a) Unless otherwise ordered by the Court, petitions for guardianships or conservatorships must be set for hearing by the Clerk six (6) weeks from the filing of the petition.

(b) If a temporary guardianship is granted ex parte, the hearing on general guardianship must be calendared for hearing within thirty (30) days from the date of granting the temporary guardianship. Probate Code Sec. 2250(d).

(c) If a temporary conservatorship is granted ex parte, the hearing on general conservatorship must be set for hearing by the Clerk six (6) weeks from the filing of the petition.

RULE 11.1801**PRIVATE PROFESSIONAL CONSERVATOR/GUARDIAN**

(a) The petition for appointment of conservator or guardian must state whether or not the proposed conservator or guardian is a private professional. Probate Code Sec. 2340 et seq.

(b) Private professional conservators/guardians will attach a declaration to any petition for conservatorship or guardianship or successor petition which must include information regarding the status of their registration, i.e., whether registration is current and complete.

(1) "Usual" and "customary" services provided by private professional conservators of the person will include those services presented in Chapter 4 of the Handbook for Conservators.

(2) "Usual" and "customary" services provided by private professional conservators/guardians of the estate will include those services presented in Chapter 5 of the Handbook for Conservators.

(c) The private professional conservator/guardian's annual statement and filing requirement must be based on a calendar year. Private professional conservators and private professional guardians must maintain an active registration while performing in that capacity. Probate Code Sec. 2342.

(d) *All private professional conservators and/or guardians must be in full compliance with the Department of Justice Statewide Registry. Probate Code Sec. 2850.*
(Amended eff. 7/12002)

RULE 11.1802**APPOINTMENT OF TEMPORARY GUARDIAN OR CONSERVATOR**

No petition for an appointment of a temporary guardian or conservator must be considered prior to the filing of the petition for appointment of a general guardian or conservator. On or after filing a petition for appointment of a guardian or conservator, any person entitled to be a guardian or conservator may be appointed as temporary guardian or conservator of the person or estate or both. Probate Code Sec. 2250. This Court prefers that the petition for the appointment of a general guardian or conservator must be separate from the petition for the appointment of a temporary guardian or conservator because the petition for a temporary guardian or conservator may be heard ex parte and the petition for a general guardian or conservator is set on calendar for hearing.

RULE 11.1803**NOTICE**

(a) Notice must be provided on forms approved by the Judicial Council and the petitioner must cause it and a copy of the petition to be personally served in accordance with the requirements of Probate Code Sec. 1511 for guardianships, Probate Code Sec. 1822 for conservatorships, and Probate Code Sec. 1460 for general requirements, except where the Court is able to determine on a sufficient declaration either of the following:

- (1) The person cannot with reasonable diligence be given notice; or
- (2) The giving of the notice would be contrary to the interests of justice.

(b) A party seeking temporary Letters of Guardianship or Conservatorship must give notice of the application to the spouse, parents, proposed ward or conservatee, other persons who seek or might be expected to seek letters, and any other person who appears to be equitably entitled to notice, unless on good cause shown the Court orders otherwise. The Court will appoint a temporary conservator/guardian if it is shown that an emergency situation exists that requires immediate attention. A temporary conservator/guardian will be appointed without notice only in the most urgent situations.

(c) The petitioner must comply with notice requirements of Probate Code Sec. 1460 on filing a petition, report, or account. In addition, notice must be given to the personal representative of the estate of a deceased minor or conservatee.

RULE 11.1804

BOND/BLOCKED ACCOUNT

(a) Except as provided by statute, every guardian and conservator must give a bond in the amount fixed by the Court. Probate Code Sec. 2320. Bond must be filed before issuance of letters.

(1) In a conservatorship proceeding, where the conservatee, having sufficient capacity to do so, has waived the filing of a bond, the Court in its discretion may dispense with this requirement or may permit the filing of a bond in an amount less than would otherwise be required under Probate Code Sec. 2320.

(b) The guardian or conservator may elect to place all or a portion of estate assets into a blocked account which would require prior Court approval to access such funds in lieu of, or, to reduce the bond amount. Probate Code Sec. 2328. ~~Local Court form "Receipt of Depository" is available at the Clerk's office, and upon filing, meets the Court's requirement that the funds have been received by the depository and may be withdrawn only upon Court order.~~ *Judicial Council form: MC-355, Order To Deposit Money Into Blocked Account, and MC-356, Receipt And Acknowledgment Of Order For The Deposit Of Money Into Blocked Account are available at the Clerk's office or can be found on the California Courts website at www.courtinfo.ca.gov.*

(c) One appointed as guardian of the person or conservator of the person need not file a bond unless required by the Court. (Amended eff.7/1/2002)

RULE 11.1805

INVENTORY AND APPRAISAL

(a) An inventory and appraisal of the estate, as of the day of appointment, must be filed by the guardian or conservator, with the Clerk within ninety (90) days of appointment, in all cases where there is a conservator or guardian of the estate, even in a case where relief from the requirement of filing accountings may be sought under Probate Code Sec. 2628. When there are no assets known to or in the possession of the conservator or guardian, the inventory should so indicate. Probate Code Sec. 2610. The inventory and appraisal must be in the form of accounts for decedents' estates as set forth in these rules. See Rule 11.603

(b) After-acquired or newly discovered property must be inventoried and appraised pursuant to Probate Code Sec. 2613.

RULE 11.1806

ACCOUNTS

(a) An accounting must be filed by the guardian or conservator:

(1) At the expiration of one year from the time of appointment and thereafter not less frequently than bi-annually unless otherwise ordered by the Court.

(2) Upon the ward's 18th birthday.

(3) Upon death of the ward or conservatee.

(4) Upon death, removal, or resignation of the guardian or conservator.

(5) Upon any other termination of the guardianship or conservatorship.

(6) At such other times as the Court may order.

(b) Accounts must contain the information required in Probate Code Secs. 2620 and 1060 and must be in the form of accounts for decedents' estates as set forth in these rules. If the account shows expenditures not authorized by prior order of the Court, the guardian or conservator must provide supporting declarations or testimony with respect to such expenditures before the account must be approved. An explanation of any unusual items appearing in the account should be set forth in a statement included in the petition and account.

- (c) The guardian or conservator must set forth in a separate schedule all debts of the ward or conservatee known or anticipated by the guardian or conservator.
- (d) The conservatee's current residence address must be set forth in each report or account.
- (e) The petition and account must set forth a statement of the age, health/physical condition, activity/treatment program and whereabouts of the ward or conservatee.
- (f) Where there are multiple wards or conservatees joined in a single proceeding an account must reflect a separate accounting for each of the respective wards or conservatee.
- (g) All copies of the account (original, copy for Court Investigator, and copies to be endorsed and returned to attorney) must be forwarded to the Court Investigator. After completing his review, the Court Investigator must file the account and set the hearing on a date mutually agreed upon with counsel. Counsel may set the account for hearing if the Court Investigator fails to complete his review and set the same for hearing within thirty (30) days of receipt from petitioner or his counsel.

RULE 11.1807**REPORT BY COURT INVESTIGATOR**

The Court Investigator must review each account filed to ascertain the correctness of the account and whether the assets are being utilized in the best interests of the conservatee or ward. The Court Investigator must file a report of his findings with the Court.

RULE 11.1808**WAIVER OF ACCOUNTING -- WHEN PERMITTED**

The Court does not favor the waiver of any final accounting by a guardian or conservator. A minor may not waive an accounting. A minor who has attained majority will not be permitted to waive a final accounting except upon a showing of unusual circumstances, and then only if the minor is present in Court at the hearing on the petition for termination without an accounting.

RULE 11.1809**PAPERS TO BE DELIVERED TO COURT INVESTIGATOR**

In all matters in which the Court Investigator has been appointed, the following documents must be served upon the Court Investigator:

- (a) A copy of the petition and order appointing the guardian or conservator.
- (b) A notice of every hearing involving the guardianship or conservatorship must be served at least 10 days prior to the hearing.
- (c) A copy of any report and account filed with the Court and a copy of the order approving or disapproving the account.
- (d) A copy of the order discharging the conservator of a deceased conservatee or the guardian of a deceased ward or ward reaching majority.
- (e) The address of the conservatee or ward.

RULE 11.1810**ORDER FOR COURT INVESTIGATOR'S FEES**

If Court Investigator's fees are due, the Court will not sign the order approving accounting or terminating the matter until the fee is paid or waived. Probate Code Sec. 1851.5.

RULE 11.1811**POWERS AND INVESTMENTS BY GUARDIAN OR CONSERVATOR**

(a) It is the policy of the Court to grant only those additional powers necessary or proper under the circumstances in each case. The Court will not routinely grant the guardian or conservator the additional powers set forth in Probate Code Sec. 2591 except on showing of good cause. Any powers so granted must be set forth at length in the order and in the letters.

(b) The investment standard set out in Probate Code Secs. 16040(a) and 16045 et seq. relating to investments by trustees, is the standard in authorizing proposed investments by guardians or conservator.

(c) Subject to the limitations set forth in Probate Code Sec. 2574(b), the guardian or conservator may invest funds in those investments described in Probate Code Sec. 2574(a) without authorization of the Court. Investments in existence at the time of the creation of the guardianship usually may be maintained.

(d) The Court will not approve the investments of funds in unsecured loans, loans to a near relative, or bonds or obligations of foreign governments or corporations, whether payable in dollars or not.

RULE 11.1812**FINAL DISCHARGE**

Each order for final discharge submitted to the Court for approval must be accompanied by an affidavit of the guardian or conservator stating that distribution has been made of all property and assets of the estate in accordance with the order for distribution, that all money, stocks, bonds, and other personal property have been delivered to the distributees as ordered by the Court, that receipts of the distributees are on file, and that all acts lawfully required of him, in his representative capacity, have been performed.

RULE 11.1813**TERMINATION OF GUARDIANSHIP OR CONSERVATORSHIP**

Upon the filing of a petition to terminate any guardianship or conservatorship, the Court Investigator must make a report to the Court concerning the circumstances of the termination and his recommendations, if any.

**PART NINETEEN
PROPERTY BELONGING TO MINORS**

RULE 11.1901**DISPOSITION OF MINOR'S FUNDS**

(a) A petition under Probate Code Secs. 3410-3413 must set forth jurisdictional facts, state the amount to be paid and by whom, the amount of fees and reimbursement of costs requested, the relief requested, and a statement of the reasons that the requested relief will best serve the interests of the minor.

(b) The petition may be presented ex parte if the only relief sought (other than reimbursement of costs and award of attorneys' fees) is to deposit funds in a blocked account and the amount involved does not exceed \$20,000. Otherwise, the petition must be noticed.

(c) Where the minor's funds are to be deposited into a blocked account, the order must provide that the person holding funds must distribute the ordered amount of fees and costs, if any, directly to the person(s) entitled thereto and disburse the balance to the selected depository, whose name and address must be specified. A hearing will be calendared in court to ensure compliance with the Court order and a personal appearance is mandatory if a receipt of deposit has not been filed. ~~"Order to Deposit" and "Receipt of Depository" are local forms available at the Clerk's office. These local forms, upon filing, meet the Court's requirement that the funds have been received by the depository and may be withdrawn only upon Court order.~~ *Judicial Council Forms: MC-355, Order To Deposit Money Into Blocked Account, and MC-356, Receipt And Acknowledgment Of Order For The Deposit Of Money Into Blocked Account are available at the Clerk's Office or can be found on the California Courts website at www.courtinfo.ca.gov.* (Amended eff. 7/1/2002)-

RULE 11.1902**REQUEST FOR WITHDRAWAL OF FUNDS IN BLOCKED ACCOUNT**

(a) All requests or petitions for withdrawal of minor's funds deposited in a blocked account must be made to the Court and may be presented ex parte in completed form. A statement must be presented with the petition verifying the amount of each item of the proposed expenditure. Local court form "Petition for Withdrawal of Minor's Funds" is available at the Clerk's office.

(b) If the funds requested are for the support and maintenance of the minor and the petitioner is a parent, the parent must file a declaration showing the parent's financial inability or other circumstances justifying the withdrawal. See Rule 11.1604

(c) No subsequent order for withdrawal will be signed by the Court until the trustee or guardian has complied with the directions of the Court contained in prior withdrawal orders. This means that all supporting vouchers ~~are~~ and required certifications and declarations must be on file with the Clerk.

(d) *Judicial Council Form MC-357, Order For Withdrawal Of Funds From Blocked Account is available at the Clerk's Office or can be found on the California Courts website and must be presented in accordance with Local Court Rule 11.501.*

(Amended eff. 7/1/2002)

RULE 11.1903**WITHDRAWAL ON MINOR REACHING 18 YEARS OF AGE**

When a petition for withdrawal of all the funds is based upon the minor's having reached majority, a birth certificate or other satisfactory evidence of age must be presented with the petition.

PART TWENTY

MINOR'S CLAIM
RULE 11.2001**SETTLEMENT OF MINOR'S CLAIM**

The following procedure must be followed in the settlement of the claim of a minor whether by way of compromise, covenant not to sue, or stipulated judgment ("minor's compromise").

- (a) Requests for approval of minor's compromise must be heard on the Probate Calendar.
- (b) The presence of the minor, the parent or guardian of the minor and counsel must be required unless excused by the Court.
- (c) Current medical reports, if the matter is applicable to the physical condition of the minor, giving a diagnosis and prognosis of a minor's condition must be attached to the petition or submitted at the hearing.
- ~~(d) Except for good cause shown, attorney's fees in such instances must not exceed 25% of the net proceeds of the minor's compromise. In case of an annuity, fees must be calculated on the cost of the annuity.~~

(Amended eff. 7/1/20020)

RULE 11.2002**ATTORNEY FEES IN MINOR'S COMPROMISE CASES**

(a) Fees

On any application for approval of a compromise of a claim under the provisions of Section 372 of the Code of Civil Procedure or in any petition for approval of a claim under the provisions of Section 3500 of the Probate Code, any judge approving attorney fees and setting the amount thereof under Sections 3302 and 3601 of the Code should be guided by the following standards:

Absent unusual circumstances or conditions, the approved attorney fees for a minor's compromise case should not exceed twenty-five percent of the settlement amount.

(b) A petition to compromise a minor's claim shall contain the following information:

- 1. A brief statement which sets forth the facts which establish liability.
- 2. A statement which outlines all medical treatment furnished, to date, what future medical, if any, is expected to be required and the nature and extent of any permanent injuries sustained by the minor.
- 3. The total medical expenses incurred by the minor to date and the estimated cost of any anticipated medical attention which will be required in the future.
- 4. A reasonably detailed declaration setting forth all effort expended on behalf of the minor in obtaining the settlement and how it was expended. The declaration should address any or all of the following factors:
 - a) Was the case an obvious liability and policy limits case that just needed processing?
 - b) What was the degree of difficulty involved?
 - c) How much skill was needed and employed?
 - d) How much risk was there of a poor result for the amount of work done?
 - e) How much money did the attorney advance?
 - f) How many hours of work did the attorney do?
 - g) What result was achieved?
 - h) What time elapsed between the work and getting paid the attorneys fees?
 - i) The fact that the attorney's fees is contingent on recovery.

For additional information see Niederer v. Ferriera, [1987] 189 Cal.App.3d 1485.

5. Where the injuries (damages) clearly exceed the amount of the insurance policy being offered, the statement shall also include a recitation of all steps taken to determine if any additional coverage or assets are available from which the minor could seek compensation.

6. Any additional information that may be of assistance to the court in determining if the petition should be granted or would assist the court in determining reasonable compensation for the attorney in the case.

C. Costs.

Allowable costs (CCP 1033.5) paid or incurred by the attorney will ordinarily be deducted from the judgment/settlement prior to computation of fees. (Amend. 41-95, eff. 7-1-95)

D. Structured Settlement.

If the petition for approval of a claim under Section 3500(b) of the Probate Code relates to a structured settlement calling for future periodic payments, the petition shall state the cost of the annuity. (Amended 4-4-92, eff. 7-1-92)

RULE 11.2003
DISTRIBUTION

- (a) If the petition is approved, the Court must direct whether the funds are to be paid to a parent, to a blocked account, or to a general guardian.
- (b) If the settlement order provides for a deposit in a blocked account in lieu of appointment of a guardian, the Court must continue the matter on calendar for filed verification of compliance. A personal appearance is mandatory if proof of deposit is not on file. ~~“Order to Deposit” and “Receipt of Depository” are local court forms available at the Clerk’s office. These local forms, upon filing, meet the Court’s requirement that the funds have been received by the depository and may be withdrawn only upon Court order.~~ *Judicial Council forms: MC-355, Order To Deposit Money Into Blocked Account, and MC-356, Receipt And Acknowledgment Of Order For The Deposit Of Money Into Blocked Account are available at the Clerk’s Office or can be found on the California Courts website at www.courtinfo.ca.gov.*
(Amended eff. 7/1/2002)

APPENDIX A

NEWSPAPERS OF GENERAL CIRCULATION
Area of Circulation Published

The Tribune P.O. Box 112 San Luis Obispo, CA 93406	DAILY San Luis Obispo County
The Country News Press P.O. Box 427 Paso Robles, CA 93447	TWICE WEEKLY Paso Robles, Templeton, Atascadero & surrounding areas
Atascadero News P.O. Box 6068 Atascadero, CA 93423	TWICE WEEKLY Atascadero, Templeton, Santa Margarita
Five Cities Times Press-Recorder P.O. Box 460 Arroyo Grande, CA 93421	TWICE WEEKLY Arroyo Grande, Nipomo, Shell Beach, Pismo Beach, Grover Beach
The Sun Bulletin P.O. Box 1387 Morro Bay, CA 93443	WEEKLY Morro Bay, Cayucos, Los Osos, Cambria
The Cambrian P.O. Box 67 Cambria, CA 93428	WEEKLY Cambria & San Simeon
New Times 197 Santa Rosa San Luis Obispo, CA 93405	WEEKLY San Luis Obispo County

APPENDIX B

SUMMARY OF ACCOUNT

LOCAL RULE 11.901(b)

The summary must be in a format substantially the same as the following, except that inapplicable categories need not be shown:

SUMMARY OF ACCOUNT
With Principal and Income Breakdown

Petition is chargeable and is entitled to the credits, respectively, as set forth in this Summary of Account. The attached supporting schedules are incorporated herein by reference:

PRINCIPAL CHARGES

Property on Hand at Beginning of Account (or Inventories)	\$ _____
Additional Property Received (or Supplemental Inventories)	\$ _____
Gains on Sales (Schedule A)	\$ _____
Total Charges - Principal	\$ _____

PRINCIPAL CREDITS

Funeral Expenses (Schedule B)	\$ _____
Debts of Decedent (Schedule C)	\$ _____
Administration Expenses (Schedule D)	\$ _____
Losses on Sales (Schedule E)	\$ _____
Distribution of Assets per Court Order (Schedule F)	\$ _____
Estate and Inheritance Taxes (Schedule G)	\$ _____
Principal Assets on Hand (Schedule H)	\$ _____
Total Credits - Principal	\$ _____

INCOME CHARGES

Interest Received (Schedule I)	\$ _____
Dividends Received (Schedule J)	\$ _____
Rents Received (Schedule K)	\$ _____
Royalties Received (Schedule L)	\$ _____
Total Charges - Income	\$ _____

INCOME CREDITS

Accounting Fees Paid in Connection with Income (Schedule M)	\$ _____
Real Estate Taxes Paid (Schedule N)	\$ _____
Ordinary Repairs Paid (Schedule O)	\$ _____
Insurance Premiums Paid on Income Property (Schedule P)	\$ _____
Utilities Paid (Schedule Q)	\$ _____
Income Distributed (Schedule R)	\$ _____
Income on Hand (Schedule S)	\$ _____
Total Credits - Income	\$ _____

APPENDIX C

EXAMPLE OF STATUTORY FEE COMPUTATION

(RULE 11.1003)

Assets as per Inventory		\$	_____
Receipts (Schedule A)		\$	_____
Gains on Sales (Schedule B)		\$	_____
Subtotal		\$	_____
Less:			
Losses on Sales (Schedule C)		\$	_____
TOTAL ESTATE ACCOUNTED FOR		\$	_____
Computation			
4% on first	\$ 15,000	\$	_____
3% on next	\$ 85,000	\$	_____
2% on next	\$ 900,00	\$	_____
1% on next	\$9,000,000	\$	_____
.5% on next	\$15,000,000	\$	_____
In excess of	\$25,000,000		Per Court Order

APPENDIX D
Local Rule 11.100

Checklist: "Ordinary" Services
CEB - California Decedent Estate Practices §20.14

_____ Meeting with the client to review the will and discuss the petition for probate, assets and liabilities, beneficiaries, notices, etc.

_____ Preparing Petition for Letters of Special Administration, if ex parte (if contested, extraordinary fees to the attorney for the appointed special administrator may be petitioned for if shown to be beneficial to the estate).

_____ Preparing petition for probate and related papers to appoint the representative, including locating the will and beneficiaries.

_____ Ordering publication and mailing of Notice of Petition to Administer Estate.

_____ Preparing and service Notice to Petition to Administer Estate if in a county where mailing of notice not handled by legal newspaper or if additional beneficiaries discovered and a supplement must be filed.

_____ Preparing required supplements or declarations.

_____ Preparing separate petition for authority under the Independent Administration of Estates Act.

_____ Preparing Petition for Appointment of Successor Representative and Order for Limited Republication.

_____ Preparing Inventory and Appraisal.

_____ Preparing Petition for Family Allowance (although it is not the representative's duty to file such a petition, and attorneys' fees may be billed directly to the nonrepresentative petitioner).

_____ Handling debts and creditors' claims, including acceptance, rejection, and payment (unless disputes arise that require compromise or litigation).

_____ Preparing status report under Probate Code Secs. §§12200 - 12205, unless multiple reports are necessary.

_____ Preparing petition on interim accounts and reports.

_____ Preparing petition for fees.

_____ Preparing final account and report and petition for compensation, fees, extraordinary compensation, and final distribution.

_____ Preparing required notices.

_____ Preparing required attorney orders.

_____ Supervising distribution, preparation of receipts of distributees, and discharge of representative.

_____ Determining expenses, including local telephone calls, normal postage, and secretarial services.

**CHAPTER 12.
JUVENILE CALENDAR PROCEDURES**

RULE 12.00**DESIGNATION AND JURISDICTION**

The department of the court designated to conduct juvenile proceedings must be known and referred to as the "Juvenile Court" and must exercise the jurisdiction conferred by Division 2, Part 1, Chapter 2 of the Welfare and Institutions Code.

RULE 12.01**JUVENILE COURT**

The presiding judge of the juvenile court must, with the concurrence of the other judges, establish policies and procedures relating to all juvenile court matters. The presiding judge of the juvenile court may appoint an advisory committee to assist in exercising these duties. The juvenile court must follow the juvenile court rules adopted by the Judicial Council of California. Local practice and procedures not otherwise inconsistent with the Judicial Council rules are set forth below. The presiding judge of the juvenile court must establish schedules, policies and procedures relating to all juvenile court matters calculated to improve the administration of justice in the juvenile court and make the most efficient use of the time of the court, the referee, counsel, probation officers and law enforcement personnel. In so doing, all possible consideration must be given to the welfare of the minors and the convenience of concerned parents and witnesses.

RULE 12.02**FACILITIES FOR DETENTION OF MINORS**

Minors taken into temporary custody as persons described by Sections 300 or 601 of the Welfare and Institutions Code must be delivered to and detained at San Luis Obispo County Department of Social Services shelter care homes for Section 300 minors, and to a San Luis Obispo County Probation Department designated non-secure detention facility for Section 601 minors.

RULE 12.03**TRANSPORTATION OF MINORS TO SHELTER CARE HOMES, JUVENILE HALLS, NON-SECURE DETENTION FACILITIES**

Minors taken into custody for detention at the 601 facility or Juvenile Service Center for 602 processing must be transported by the law enforcement agency which has taken the minor into custody; provided, however, that in instances of bona fide emergency or in instances where a Probation Officer has volunteered to accept responsibility for transportation of the minor, the law enforcement agency must be deemed relieved of said transportation responsibility. The law enforcement agency must still be responsible for providing the Juvenile Admission Record as set forth in Rule 12.04 below.

Minors taken into custody for detention at the San Luis Obispo County Department of Social Services shelter care home for Sec. 300 minors must be transported by Child Protective Services workers except in instances where the minor is actively resisting removal and should be transported in a law enforcement vehicle, or under circumstances where law enforcement already has taken the minor for the place of removal and volunteers to transport. The Child Protective Services worker remains responsible for signing the minor in the shelter care home and providing information as to the time the minor was taken into protective custody, the circumstances of his or her removal, and the name of the social worker to contact concerning the minor thereafter.

RULE 12.04**INFORMATION TO BE PROVIDED BY LAW ENFORCEMENT OFFICERS AT TIME OF DELIVERY OF MINOR TO SHELTER CARE HOME, JUVENILE HALL, NON-SECURE DETENTION FACILITIES**

On each occasion that a minor is delivered to any of the above-named facilities, a Juvenile Admission Record form must either accompany the minor or be completed at the time of transfer of custody. The Juvenile Admission Record form must be filled out by a law enforcement officer having knowledge as to the facts subjecting the minor to juvenile court jurisdiction, the facts of the apprehension and temporary custody of the minor, and, if continued detention is recommended by the law enforcement agency, the basis of such recommendation. The Juvenile Admission record form is to be left with the Juvenile Hall Receiving Officer or the operator of either the shelter care home or non-secure facility as is appropriate. (See "Sample A - Juvenile Admission Form" at the end of this chapter).

RULE 12.05

FILING OF PETITIONS & TRANSFER - INS WITH CLERK

(a) All petitions except fax filings, must be filed at the court clerk's offices at the County Government Center at any time during the normal business hours of such offices.

(b) Notwithstanding any other rule to the contrary and in consonance with the provisions of CRC1406.5, the juvenile court will permit fax filings on an experimental basis as limited below:

(1) Agencies permitted to file by fax are limited to the Department of Social Services, the Probation Department and the Office of the District Attorney.

(2) Documents which may be filed by fax are limited to petitions filed under Welfare & Institutions Code sections 300, 601, 342, 387, 388, 777, and 778.

(3) Petitions may be faxed to the juvenile court at any hour and will be deemed filed on the date and time of receipt and the clerk of the court is authorized to affix a file stamp with the date and time of receipt.

(4) The presiding judge of the juvenile court is authorized to modify (1) and (2) above when circumstances of the fax filing experiment prove that additional persons, agencies and documents may be accommodated by the clerk's office without difficulty. (Eff. 7/1/1999)

RULE 12.06**REFEREES**

The judges of the Superior Court of California, County of San Luis Obispo may appoint from time to time one or more referees to serve at their pleasure on a full-time or part-time basis. Notwithstanding the provisions of Welfare and Institutions Code Section 553, it must be the policy of this court that all judges of this court will actively participate in the selection, appointment and proceedings terminating the appointment of juvenile court referees. A commissioner of the court may be appointed to also serve in the capacity of a Juvenile Referee.

A referee must conduct hearings, make orders and be bound by such rules as are prescribed by the Juvenile Court Law and as set forth in such orders for such purpose as the presiding judge of the juvenile court may, from time to time, promulgate. The referee is designated as the proper person before whom an appearance must be made pursuant to a written promise to appear issued as to any person under the age of 18 years under the provisions of Sections 40500 and 40502 of the Vehicle Code.

RULE 12.07**TRAFFIC HEARING OFFICERS**

The judges of the Superior Court of California, County of San Luis Obispo may appoint from time to time one or more traffic hearing officers to serve at their pleasure on a full-time or part-time basis. A traffic hearing officer must hear and dispose of all cases in which he or she may act as prescribed by the Juvenile Court Law subject to the orders of the presiding judge of the juvenile court excepting those he or she deems should be transferred for hearing to the juvenile court judge or referee.

RULE 12.08**RELEASE OF INFORMATION**

Information concerning the identity of persons suspected, detained or charged as being within Sections 300, 601 or 602 of the Welfare and Institutions Code must be released only to the extent and subject to the qualifications provided in Section 827 of the Welfare & Institutions Code or by an order of presiding judge of the juvenile court or juvenile court referee. Upon application for the release of a minor's juvenile records by the parties to a family law action, the juvenile court may at its discretion direct on the minute order of the court that the family law judicial officer will conduct the ex parte review of the juvenile court records pursuant to either Welfare and Institutions code section 827 or Family Law code section 3152.

RULE 12.09**CALENDARS**

Juvenile court calendars must be set and called at such times as are prescribed by the presiding judge or the presiding judge of the juvenile court. Except as otherwise provided by the juvenile court judge or referee, all calendar matters will be heard at the courtroom at the Juvenile Services Center.

RULE 12.12**REPORTS**

Consistent with the practices prescribed in Rules 1371 (b) and 1376 (c) of the California Rules of Court, social study reports, whether prepared by the probation department or the department of social services, must be made available to the juvenile court and all parties, or counsel. If the social study report has an accompanying psychological evaluation, copies of the evaluations must

accompany only those reports going to counsel and the court. Counsel for the parties will determine if release to counsel's client is appropriate or, in the alternative, whether a discussion summarizing the evaluation would be in the party's best interest. As in the case of petitions, social study reports may be filed at the clerk's offices in San Luis Obispo at any time during the normal business hours of such office. The county clerk's office must mark all such reports with a date and time stamp immediately upon receipt.

RULE 12.13
MOTIONS

The notice of motion designating a motion pursuant to Welfare and Institution Code Section 701 must specifically describe and list the evidence which is the subject of the motion to suppress; and must specifically state the theory or theories which must be relied upon and urged for the suppression of the evidence; and cite the specific authority or authorities which will be offered in support of the theory or theories upon which suppression of the evidence is urged when a search is based upon a warrant.

CHAPTER 13.
MENTAL HEALTH CALENDAR PROCEDURES

RULE 13.00
PROCEEDINGS

The department designated to hear psychiatric proceedings must conduct all proceedings in the following matters and such other matters as may be specially assigned to it by the presiding judge.

(a) Pursuant to Article 2 of Chapter 1 of Division 3 of the Welfare and Institutions Code, commencing with Section 3050, the receipt of reports and the conduct of a hearing for involuntary commitment of a person alleged to be a narcotic addict who has been convicted of a crime;

(b) Pursuant to Article 3 of Chapter 1 of Division 3 of the Welfare and Institutions Code, commencing with Section 3100, the receipt of reports and the conduct of a hearing for involuntary commitment of a person alleged to be a narcotic addict who has been convicted of a crime;

(c) A proceeding of any kind for the evaluation or involuntary treatment of a person pursuant to Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code, commencing with Section 5150;

(d) A conservatorship proceeding pursuant to Chapter 3 of Part 1 of Division 5 of the Welfare and Institutions Code, commencing with Section 5350;

(e) A proceeding arising for a petition for the commitment of an alleged mentally retarded and dangerous person pursuant to Article 2 of Chapter 2 of Division 6 of the Welfare and Institutions Code, commencing with Section 6500;

(f) A proceeding arising from a petition for the commitment of an alleged mentally disordered or mentally retarded juvenile court ward pursuant to Article 3 of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, commencing with Section 6500;

(g) A proceeding of any kind arising from a petition for the commitment of an alleged mentally disorder sex offender pursuant to former Article 1 of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code commencing with Section 6300;

(h) A proceeding of any kind for the commitment or placement of a person alleged to be mentally retarded;

(i) A habeas corpus proceeding file by or on behalf of any person being held by an institution, public or private, including all proceedings pursuant to Article 4 of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code, commencing with Section 5250.

(j) Proceedings for administering medications involuntarily to a person detained in a county or state facility ("Keith Brown", "Keyhea" or "Reise" hearings).

(k) Proceedings seeking to have a parolee treated by the Department of Mental Health pursuant to Penal Code sections 2960, et seq, or to extend treatment pursuant to Penal Code sections 2970, et seq, will be heard by the felony team. (Eff. 1/1/1998)

RULE 13.01
JURY TRIAL AND MATTER WHICH MAY BE TRANSFERRED

In a case in which the subject person is entitled to and makes timely demand for a jury trial, the judge conducting the psychiatric proceeding will conduct the trial. (Eff. 1/1/1998)

RULE 13.02
INVOLUNTARY MEDICATION

Upon the filing of a writ of habeas corpus pursuant to Welfare and Institutions Code Section 5275, the agency filing the notice of certification signed and issued pursuant to Welfare and Institutions Code Section 5251 must include, as part of the certification filed with the court a

statement of the necessity of the administration of psychotropic medication. If the petitioner is unwilling or incompetent to accept medication which is medically indicated, the agency must, as part of the request for an order for 14 days intensive treatment, seek an order for provision of such medication on an involuntary basis.

CHAPTER 14. APPELLATE CALENDAR PROCEDURES

RULE 14.00 SESSIONS

Regular sessions of the Appellate Division of the Superior Court of California, County of San Luis Obispo must be held each calendar month at a date, time and place specified in the general calendar. Special sessions must be held at the call of the presiding judge of the Appellate Division.

RULE 14.01 BRIEFS

Briefs not exceeding 15 pages in length must be prepared, served and filed as provided by Rule 105 of the California Rules of Court. Counsel must prepare three carbon or photographic copies of each original brief for the assistance of the judges of the court and deliver them to the clerk of the court at the time such original brief is filed.

RULE 14.02 ORAL ARGUMENT

Counsel will be allowed a maximum of 15 minutes for each oral argument unless for good cause shown the court should otherwise order. The appellant or the moving party must have the right to open and close the argument.

RULE 14.03

RULE 190 ORDERS TO SHOW CAUSE

If the appellant fails to file an opening brief or perfect the record within the applicable time limits, 22 days before the day scheduled for hearing an order to show cause must issue requiring the appellant to show cause to the court why the appeal should not be dismissed pursuant to the provisions of California Rules of Court, Rule 190. The hearing on the order to show cause must be set at the same time as the time scheduled for arguments on the appeal. (Eff. 1/1/1998)

RULE 14.04

SETTLED STATEMENTS ON APPEAL

Upon filing a notice of appeal, trial counsel for appellant must:

- 1) Within 15 days file a proposed statement on appeal;
- 2) Within 45 days notice a hearing to settle its statement on appeal; and

If appellant, represented by appointed counsel at trial, seeks counsel appointed for the appeal, trial counsel must cause a financial declaration of indigency to be filed. If appellant was either not represented at trial or was represented by private trial counsel, appellant (if not represented at trial) or trial counsel must cause a financial declaration of indigency to be filed, and must file such supporting documents as required by the California Court of Appeal, District 2, Division 6, for appeals filed in that court. Appellant (if unrepresented at trial) or trial counsel must therewith file with the court a request that counsel be appointed for the appeal. The trial court must appoint counsel for the appeal or not in its discretion using generally the criteria contained in California Rules of Court rule 985. (Eff. 7/1/1999)

RULE 14.05

WRIT JURISDICTION

(a) The appellate division has jurisdiction over all petitions for writs of mandate, prohibition and review (certiorari) in any misdemeanor, limited civil or infraction case. (Code of Civil Procedure §1068(b), 1085(b) and 1103(b).) A panel of three judges participate in each petition for writs of mandate, prohibition and review (certiorari) in any misdemeanor, or infraction case, or limited civil case. The court may:

- (1) Continue the matter and request supplementary documents or preliminary opposition;
- (2) Summarily deny the writ without hearing;
- (3) Notify the parties of the court's intention to issue the peremptory writ in the first instance (Palma vs. U.S. Industrial Fasteners, Inc. (1984) 36 Cal. 3d 171; or
- (4) Issue an alternative writ or order to show cause and set the matter for hearing, after which, a decision will be made. If an alternative writ is issued, petitioner must serve the writ on all other parties.

~~(b) Petitions for writ of habeas corpus that are filed in conjunction with an appeal pending in the Appellate Division must be heard by one judge, assigned by the presiding judge. If an evidentiary hearing is granted for a writ of habeas corpus, the Presiding Judge of the Appellate Division, upon the request of the assigned judge, may transfer the matter to a trial court for hearing and findings of fact as directed by the transfer order. (Adopted Effective 7/1/2001)~~
(Repealed Eff. 1/7/2002)

**CHAPTER 15.
EX PARTE ORDER PROCEDURES**

RULE 15.00

APPLICATION FOR EX PARTE ORDER

(a) Notice Requirements

Except as provided by California Rules of Court section 1285.05 and/or Code of Civil Procedure section 527.6, a party seeking an ex parte order must notify the opposing party or parties of the request. Such notification must take place not less than twenty four (24) hours before the time of the appointment. The requirement of notice may be excused by the court for good cause shown. (Eff. 1/1/1998)

(b) Special Notice Requirements

An application for an ex parte order must contain a statement of any requests for special notice that have been filed or an allegation that no special notice has been requested. If any such notice has been requested, a waiver thereof must accompany the application. If the application does not comply with the foregoing, it must be first presented to the clerk's office for a clearance as to special notices.

(c) Appointments

Where the matter requires a conference between the applicant or his or her counsel and a judge, before notifying an opposing party of an ex parte request, the applicant must obtain a scheduled appointment with the judge assigned to hear the request. The applicant must call the judge's secretary for the purpose of requesting the appointment. In Family Law matters the request must be made to the clerk's office at (805) 781-1373. (Eff. 7/1/1999)

(d) Nonappearance Ex Parte Applications

All nonappearance ex parte applications and orders must be delivered to the clerk's office for presentation to a judge in the regular course of business. The clerk must expedite emergency matters upon request. All applications and orders for appearance ex parte matters must be presented to the superior court secretary in Room 355 on the day and time scheduled for the ex parte hearing. (Eff. 1/1/1998)

(e) Emergency Nature of Request

The evidentiary declaration must contain facts which demonstrate why the matter is appropriately handled as an ex parte matter, as opposed to being heard on the court's law and motion calendar (with or without an order shortening time). (Eff. 1/1/1998)

RULE 15.01

TO WHOM PRESENTED

Except as otherwise specifically provided by these rules, an application for an ex parte order must be presented as follows:

(a) An application for a writ of mandate or prohibition must be presented to the following judges under the following circumstances:

(1) Writ seeking action in a misdemeanor, infraction, or limited civil proceeding - to the Presiding Judge of the Appellate Division

(2) Writ seeking action in an administrative proceeding (for example, city council, Coastal Commission), except Department of Motor Vehicles implied consent license proceedings, -- to the civil judge randomly chosen in the usual fashion for assignment of all civil cases

(3) Writ seeking action in a Department of Motor Vehicles implied consent license proceeding -- to the felony judge assigned pursuant to the usual system of assignment based on the name of the petitioner.

(b) An application involving a juvenile court matter must be presented first to the juvenile court referee in cases in which she or he is authorized to act or the presiding judge of the juvenile court.

(c) An application involving an order to show cause in a domestic relations matter must be presented first to one of the family law commissioners in cases in which he or she is authorized to act and then to the family law presiding judge.

(d) An application involving a probate matter must be presented to the judge presiding in the probate department.

(e) An application involving a matter pending before a particular judge must be presented to that judge.

(f) All other applications must be presented to the presiding judge or designee.

(g) If the judge to whom an application should be presented under this rule is unavailable or disqualified, or in cases of emergency, the application may be presented to any available judge or the Assistant presiding judge if he or she is available. (Amended Effective 7/1/2001)

RULE 15.03

FILING OF APPLICATIONS AND ORDERS

(a) Applications for ex parte orders must be accompanied by a proposed order. Absence of a proposed order for appearance ex parte matters may necessitate rescheduling the ex parte hearing. (Eff. 1/1/1998)

**CHAPTER 16.
JURY SERVICES**

RULE 16.00

PURPOSE

These rules are established for the purpose of complying with and implementing the California Code of Civil Procedure, the Standards of Judicial Administration, and the California Rules of Court relating to the selection of jurors and the formation of jury trials in San Luis Obispo County. (Eff. 1/1/1998)

RULE 16.01

JURY COMMISSIONER

(a) Appointment

In the opinion of a majority of the judges, the business of the court requires the appointment of a Jury Commissioner. Pursuant to section 204.1 of the Code of Civil Procedure, the judges have appointed a Jury Commissioner for San Luis Obispo County who shall have the authority, duties, and responsibilities to perform the functions as provided for by section 204.1 CCP and by these rules.

(b) Designation as "Attache"

The Jury Commissioner is designated as the "attache" of the court to perform the functions set forth in sections 204.3 (a) and (b), 204.5 (a) and (b), and 225 of the Code of Civil Procedure, and 903.1 of the California Penal Code. All assistants to the Jury Commissioner are designated as "attaches" of the court to perform the functions set forth in sections 204.3 and 225 CCP and for the purpose of granting or denying excuses for prospective jurors under 201 (a) CCP.

RULE 16.02

JUROR SELECTION

The Jury Commissioner may use mechanical, electric, or electronic equipment in the performance of any function for the selection and drawing of jurors by lot. Section 202 CCP. (Eff. 1/1/1998)

(a) Source List

The most current San Luis Obispo voter registration file, combined with the Department of Motor Vehicle file of licensed drivers and identification card-holders who are 18 years of age and older, must constitute the sources from which prospective jurors will be selected. Section 197 CCP. (Eff. 1/1/1998)

(b) Master Jury File

The Jury Commissioner ~~must~~ *must* have a new master jury file prepared at least once during any consecutive 12 months. The number of names to be placed on such master jury file must be determined by the Jury Commissioner. Section 198 CCP. (Eff. 1/1/1998)

(1) The master jury file must be used for the selection of trial jurors in cases tried in all departments of the court. Section 203.1 CCP and these rules. (Eff. 7/1/1999)

(c) Random Selection of Prospective Jurors

~~The plan for random selection must be designed by the Department of Technical Services of San Luis Obispo County, with the approval of the Jury Commissioner, to ensure that a fair cross section of the eligible persons residing in San Luis Obispo County are selected and that random key numbers are generated and assigned for each prospective juror. Sections 219 and 222. (Eff. 1/1/1998)~~ *The plan for random selection must be designed by Jury Systems Incorporated (JSI), the Jury Management System contracted with the San Luis Obispo Superior Court, upon the approval of the Jury Commissioner, to ensure that a fair cross section of the eligible persons residing in San Luis Obispo County are selected and that random key numbers are generated and assigned for each prospective juror. Sections 219 and 222.*

(d) Selection and Summoning Process

The summoning and qualifying of prospective jurors from the master jury file will be performed as one integrated process and ensure random selection from a fair cross section of the population served by the court. Section 197 CCP.

RULE 16.03**DISQUALIFICATION, EXEMPTION, EXCUSE, DEFERMENT OF JURORS**

The Jury Commissioner, an assistant to the Jury Commissioner, or the court must determine the statutory disqualification or exemption of a prospective juror as defined by sections 203 or 204 of the Code of Civil Procedure. When a prospective trial juror may be excused from jury service under section 200 or the Code of Civil Procedure, provisions of the Standards of Judicial Administration 4.5 and these rules must apply. (Eff. 1/1/1998)

(a) Excuse Policy

A prospective juror qualifies for excuse from service on the basis of one of the categories set forth in the statutes of the California Civil Code of Procedure section 203, section 4.5 of the Standards of Judicial Administration, and these rules, as determined by the Jury Commissioner and/or the presiding judge of the court. (Eff. 1/1/1998)

(1) Procedure for Granting Excuse from Jury Service

A request for excuse from jury service must be addressed to the Jury Commissioner, in writing, and submitted for determination prior to the appearance date, unless the excuse is granted in court the day of the trial. All requests for excuse by a prospective juror will be fairly reviewed and all relevant information will be considered. A prospective juror may be personally interviewed if it is determined necessary or desirable to do so by the Jury Commissioner. The Jury Commissioner may refer any request to the presiding judge for his/her determination.

(b) Deferment Policy

It is the intent of these rules and the policy of the court that, if a juror is excused for a reason that is temporary in nature, jury service must be deferred to future date when the disqualification no longer exists.

RULE 16.05**PANEL SELECTION**

All prospective jurors summoned for the court must be selected ~~from~~ *from* the master jury file. The Jury Commissioner will determine the number of prospective jurors to assign for each case based on the type of case, number of defendants, and the length of time the case is estimated to last, after consultation with the trial judge or court clerk. (Eff. 7/1/1999)

(a) Special Venires

The Jury Commissioner, after receiving notification that a case will require a special venire, will confer with the presiding judge and/or assigned trial judge before ordering jurors to appear. (Eff. 1/1/1998)

(b) Supplemental Panels

Should a judge require a supplemental panel of prospective trial jurors, such panel will be prepared in the same manner as the first panel was selected. Section 226 CCP.

(c) Trial Jury Assignments

Upon each appearance of a juror in either the jury assembly room or a department of the court, a record of attendance must be maintained by the Jury commissioner or courtroom clerk.

RULE 16.06**TERM OF SERVICE, TRIAL JUROR PER DIEM AND MILEAGE FEE**

Pursuant to state law and by order of the ~~San Luis Obispo County Board of Supervisors, Judicial Council~~, the fees of jurors in the Courts of this county, in both civil and criminal cases, must be \$5 a day for each day's service, commencing on the second day of service as a juror and 15 cents for each mile actually traveled in attending court as a juror. In addition, a juror must not be required to serve more than five court days during any 12-month period, except as necessary to complete the hearing of an action. (Eff. 1/1/1998)

(a) In General

At no time shall the members of the jury be informed as to which party is paying fees, mileage, or other costs for civil cases.

(1) Deposit of Fees

Jury fees, as provided by statute, must be deposited with the Clerk of the Court by the party demanding the jury (except for eminent domain cases) after the case has been set for trial at the pretrial or trial setting conference and not later than 25 days prior to the date of trial. During the trial, it must be the duty of the party demanding the jury to pay the ~~Clerk of the Court~~ *Jury Commissioner's office* daily, in advance, the per diem jury fees and mileage required by law for each successive day of service of the jurors impaneled in the case during the trial. The ~~court clerk's~~ *Jury Commissioner's Office* shall have the duty to collect such fees and mileage for deposit in the Clerk's civil trust fund. Sections 631, 631.3, and 631.5 CCP.

(2) Forfeiture of Deposit

If the case is settled or the jury has waived or the case goes off calendar for whatever reason, or the case is continued for trial on motion of the party depositing the jury fees, none of the deposit shall be refunded if the court finds there has been insufficient time to notify the jurors that the trial would not proceed at the time set. All fees determined to be retained pursuant to this rule must be transferred to the *State of California. General Fund of San Luis Obispo County.*

(b) Telephone Standby

In order to control the number of jurors appearing for jury duty and to prevent juror overcall, jurors will be placed on telephone standby when they are summoned.

~~(1) Any prospective juror or alternate juror may volunteer to be available on one-hour notice by phone. Section 213 CCP. (Eff. 1/1/1998)~~ *Any prospective juror or alternate juror may be placed on telephone stand-by to be available on one-hour notice by phone.*

RULE 16.07

JUROR INFORMATION

The Jury Commissioner must not disclose information regarding jurors unless the information is required for the selection of trial jurors, except by order of the court. Section 237 CCP. (Eff. 1/1/1998)

RULE 16.08

SELECTION OF GRAND JURORS

Annually, upon request by the presiding judge of the Superior Court of California, County of San Luis Obispo, the Jury Commissioner must furnish the judges of the court a list of qualified prospective grand jurors. Sections 903, 903.1, 903.2, 903.3, and 903.4 of the California Penal Code.

(a) Qualification of Jurors

The Jury Commissioner must inquire and be informed of the qualifications of persons who will be summoned before the court for grand jury service. Section 903.1 PC. (1) The Jury Commissioner must be satisfied that a person is qualified to serve as a grand juror before he or she is sworn. Section 909 PC.

(b) Submission of List and Names not on List

The Jury Commissioner must submit a list of recommended prospective grand jurors to the court for examination and selection by the judges of the court. Section 903.3 PC.

(1) The judges are not required to select any names from the list returned by the Jury Commissioner but may, instead, select from among the body of persons in the county suitable and competent to serve as grand jurors. Section 903.4 PC.

(i) Nominations by the judges will be submitted to the presiding judge on or before June 1.

(2) The judges of the court must meet during June of each year and, by majority vote therefor, select the members of the panel from which the grand jurors to serve during the ensuing fiscal year must be selected. The court will then submit a copy of the names to the Jury Commissioner and the Clerk for publication. Sections 899 and 900 PC.

(c) Annual Drawing, Number of Jurors, Length of Service

One grand jury must be drawn and impaneled each year. The grand jury must consist of not less than 25 nor more than 30 persons. Sections 904 and 905 PC.

CHAPTER 18.
VERBATIM COURT REPORTING SERVICES

RULE 18.00**COURT REPORTERS**

(a) The court's official court reporters ~~must~~ constitute the Reporting Services section of the Court, ~~serving at the will and pleasure of the judges of the court~~ in accordance with applicable statutes and rules, under the general direction of the presiding judge and the Court Executive Officer. Official and pro tempore court reports must make such reports to the California Judicial Council (Administrative Office of the Courts) and to the Court Executive Officer of this Court, as provided by statutes and by rules of court, and as otherwise directed by the Court Executive Officer.

(b) Availability of Official Court Reporting Services

Official court reporting services must be provided in all felony criminal and juvenile dependency and delinquency proceedings. Official reporting services also must be provided at the request of the Court or the parties for the following proceedings, subject to the availability of an official court reporter: family law trials, family support proceedings, unlimited jurisdiction civil trials, civil law and motion, probate, adoption, and mental health proceedings. Official reporting services are not available for the following proceedings: appeals to the Appellate Division of the Superior Court, small claims cases, infraction criminal proceedings, misdemeanor criminal proceedings, limited jurisdiction civil trials, and small claims trial de novos.

(c) Court Reporting Services Arranged by the Parties

If official reporting services have been requested and are normally available for a proceeding under subpart b, and it appears that an official reporter will not be available for the proceeding, the clerk must notify the parties as soon as possible prior to the trial or hearing date. When official reporting services are not available for a proceeding, the parties may arrange for the attendance of a certified shorthand reporter to serve as an official pro tem reporter pursuant to Rule 891 of the California Rules of Court. If a party arranges and pays for the attendance of a pro tem reporter at a hearing or trial because of the unavailability of official reporting services, the parties must not be charged the fee for official reporting services provided for in Government Code Section 68086(b)(1). (Amended Effective 7/1/2001)

RULE 18.01**PRO TEMPORE REPORTERS**

In order that the judicial business of the court may be diligently carried on and a particular matter may proceed to trial or hearing without delay, a pro tempore official reporter may be appointed to perform the duties of a phonographic reporter in such matter, or until a regular official reporter becomes available for such service. A pro tempore official reporter for such service may be appointed by the presiding judge of the court and the judge or referee presiding in the department where such reporter will serve. The compensation and costs of the pro tempore official reporters must be as provided in Government Code section 70059.9.

RULE 18.02**ELECTRONIC RECORDING OF COURT PROCEEDINGS**

When a court reporter is not present, court proceedings may be electronically recorded by court personnel in cases *involving misdemeanors, limited jurisdiction civil and selected unlimited civil cases.*
